

**REVISED PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R102-01

October 23, 2001

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-21, 445B.210 and 445B.760.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Division” means the division of environmental protection of the state department of conservation and natural resources.*

Sec. 4. *“Executive order” means a document issued by the California Air Resources Board certifying that a specified engine family or model year vehicle has met all applicable requirements of Title 13 of the California Code of Regulations for certification and sale in California.*

Sec. 5. *“Heavy-duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a gross vehicle weight rating of 14,001 pounds or greater.*

Sec. 6. *“Heavy-duty motor vehicle” means a motor vehicle with a gross vehicle weight rating of 14,001 pounds or greater.*

Sec. 7. *“Model year” means the manufacturer’s annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of the completion of the chassis.*

Sec. 8. *“New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.*

Sec. 9. *“New motor vehicle engine” means a new engine in a motor vehicle.*

Sec. 10. *“Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.*

Sec. 11. *“Ultra-small volume manufacturer” means any manufacturer with California sales that are less than or equal to 300 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model year based on the average number of vehicles and engines sold by the manufacturer in the previous 3 consecutive model years.*

Sec. 12. *“Urban bus” means a passenger-carrying vehicle powered by a diesel engine that is used to propel a motor vehicle with a gross vehicle weight rating of 33,000 pounds or greater, or of a type normally powered by a diesel engine that is used to propel a motor vehicle with a gross vehicle weight rating of 33,000 pounds or greater, with a load capacity of 15 or more passengers and intended primarily for intracity operation, that is, within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or*

token, rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, for example, restrooms, large luggage compartments and facilities for stowing carry-on luggage.

Sec. 13. 1. *Except as otherwise provided in this section, the provisions of sections 2 to 19, inclusive, of this regulation apply to:*

- (a) Heavy-duty diesel engines produced for the 2005 and 2006 model years; and*
- (b) New motor vehicles containing such engines.*

2. *The provisions of sections 2 to 19, inclusive, of this regulation do not apply to:*

(a) A model year 2005 or 2006 heavy-duty diesel engine manufactured by an ultra-small volume manufacturer or intended for use in an urban bus.

(b) An engine if, following a technology review, the California Air Resources Board determines that it is inappropriate to require compliance for diesel engines of that particular model year and engine family.

(c) A motor vehicle acquired by a resident of this state for the purpose of replacing a motor vehicle registered to the resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state if the replacement vehicle is acquired out of the state at the time the previously owned vehicle was either damaged, became inoperative or was stolen.

(d) A motor vehicle transferred by inheritance, or by a decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction.

(e) A motor vehicle for which a certificate of conformity has been issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq., and which was originally registered in another state

by a resident of that state who subsequently establishes residency in this state and who, upon registration of the motor vehicle in this state, provides satisfactory evidence to the department of motor vehicles of the previous residence and registration.

(f) An emergency vehicle.

(g) A military tactical vehicle or equipment.

(h) Any other motor vehicles exempted by section 43656 of the California Health and Safety Code.

Sec. 14. *The requirements set forth in sections 2 to 19, inclusive, of this regulation are in addition to, and not in lieu of, the requirements for heavy-duty motor vehicles set forth in the remaining provisions of this chapter.*

Sec. 15. *No person who is a resident of this state or who operates an established place of business in this state may sell, lease, rent, import, deliver, purchase, acquire or receive in this state, offer for sale, lease or rental in this state, or attempt or assist in any such prohibited activity, any of the following motor vehicles or engines that are intended primarily for use or for registration in this state, unless the manufacturer of the engine has received an Executive Order for the engine, certifying that the engine complies with the applicable exhaust emission standards of section 1956.8 of Title 13 of the California Code of Regulations, as those standards existed on October 1, 2001:*

- 1. A 2005 or 2006 model year heavy-duty diesel engine.*
- 2. A new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine.*
- 3. A motor vehicle with a new 2005 or 2006 model year heavy-duty diesel engine.*

Sec. 16. *Any order issued or any enforcement action taken by the California Air Resources Board to correct any noncompliance with any requirements for heavy-duty diesel engines adopted by the board on December 8, 2000, are applicable to all engines and motor vehicles that are subject to the requirements of sections 2 to 19, inclusive, of this regulation, unless the manufacturer of such an engine, within 21 days after the issuance of the order or the action taken, demonstrates to the satisfaction of the division that the order or action is not applicable to such engines or motor vehicles in this state.*

Sec. 17. 1. *Any voluntary or influenced emission recall campaign initiated by any manufacturer pursuant to sections 2113 to 2121, inclusive, of Title 13 of the California Code of Regulations is applicable to all engines and motor vehicles that are subject to the requirements of sections 2 to 19, inclusive, of this regulation, unless the manufacturer, within 21 days after the approval of the campaign by the California Air Resources Board, demonstrates to the satisfaction of the division that the campaign is not applicable to such engines or motor vehicles in this state.*

2. *As used in this section, “influenced emission recall” means an inspection, repair, adjustment or modification program initiated and conducted by a manufacturer or its agent or representative as a result of in-use enforcement testing or other evidence of noncompliance provided or required by the California Air Resources Board, to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.*

Sec. 18. 1. *The state environmental commission will waive the provisions of sections 2 to 17, inclusive, of this regulation if it determines that any of the following motor vehicles or engines are lawfully being offered for sale, lease or rental in a state that is contiguous to Nevada without the manufacturer thereof having received an Executive Order for the engine*

certifying that the engine complies with the applicable exhaust emission standards of section 1956.8 of Title 13 of the California Code of Regulations, as those standards existed on October 1, 2001:

(a) A 2005 or 2006 model year heavy-duty diesel engine.

(b) A new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine.

(c) A motor vehicle with a new 2005 or 2006 model year heavy-duty diesel engine.

2. If a court of competent jurisdiction renders a decision declaring the provisions of section 1956.8 of Title 13 of the California Code of Regulations to be void, invalid or unenforceable and that decision is appealed, the commission may waive the provisions of sections 2 to 17, inclusive, of this regulation pending a final determination of the cause of action.

3. The commission will specify the length of time a waiver is in effect.

4. The commission may revoke a waiver before the expiration of the period of the waiver if it determines that the basis upon which the waiver was granted no longer exists.

Sec. 19. *If any of the provisions of sections 2 to 19, inclusive, of this regulation, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity will not effect the remaining provisions, or their application, that can be given effect without the invalid provision or application.*

Sec. 20. NAC 445B.400 is hereby amended to read as follows:

445B.400 The provisions of NAC 445B.400 to 445B.735, inclusive, *and sections 2 to 19, inclusive, of this regulation* provide the standards for controlling engine emissions.

Sec. 21. 1. The provisions of sections 2 to 20, inclusive, of this regulation expire by limitation on the date that:

(a) A court of competent jurisdiction renders a decision declaring the provisions of section 1956.8 of Title 13 of the California Code of Regulations to be void, invalid or unenforceable and that decision is not or cannot be appealed; or

(b) The provisions of section 1956.8 of Title 13 of the California Code of Regulations are repealed,

FLUSH whichever occurs earlier.

2. The state environmental commission will notify the Legislative Counsel in writing if it determines that the provisions of sections 2 to 20, inclusive, of this regulation have expired by limitation pursuant to subsection 1.